**THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY**

**W.P.No. 10075 OF 2004**

**A N D**

**W.P.No. 10086 OF 2004**

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**10th February, 2006**

Between:

W.P.No. 10075 OF 2004

Palle Prameela …Petitioner

A N D

1. The Commissioner, Jangaon Municipality,

Jangaon, Warangal District and another

…Respondents

Between:

W.P.No. 10086 OF 2004

Ms.Cheela Anitha Sagar …Petitioner

A N D

1. Jangaon Municipality, rep. by its

Commissioner, Jangaon, District Warangal

and Others

…Respondents

**THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY**

**W.P.No. 10075 OF 2004**

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**COMMON ORDER:**

1. These two writ petitions are interrelated and they can be disposed of by a

common order.

2. Smt. P.Prameela, the petitioner in W.P.No.10075 of 2004 submitted building permission application for construction of ground plus two floors by demolishing the existing tiled house. Jangaon Municipality considered her application and granted permission on 6-5-2004.

3. Ms.Cheela Anitha Sagar, the petitioner in W.P.No. 10086 of 2004 submitted a complaint to the Jangaon Muniipality raising certain objections for grant of building permission to Smt. P.Prameela. The objection, apparently on the ground of overlapping of an area admeasuring 37'.1" x 2'.0". Jangaon Municipality issued show cause notice to Smt. P.Prameela as to why the permission granted dated 6-5-2004 cannot be revoked. The show cause notice issued to Smt. P.Prameela reads as follows:

> "*On verification of the copies of Registered sale deed of both the parties it is noticed by the authority that there is some civil dispute between the both the parties, both the parties have submitted sale deed copies revealing some overlapping of 37'.1"x2'.0", therefore, both the parties are herewith directed for approaching the Hon'ble Court for settlement of civil dispute.*
>
> *Smt. Palla Prameela, w/o: Veereshlingam is herewith issuing show cause notice that is why the Municipality cannot revoked the permission within three days granted vide Proc. No. H1/787/04, dt. 6-5-2004 in favour of you."*

4. Smt. P.Prameela submitted an explanation to show cause notice. The Commissioner, Jangaon Municipality, passed order dated 14-6-2004 under Section 344(5) and (6) of A.P.Municipality Act, 1965, whereby building permission granted to Smt. P. Prameela came to be revoked. The order passed by the Commissioner, Municipality, Jangaon reads as follows:

> "*Subject to the Special provision in chapter IV and VI of Part V regarding, the permission granted for the construction of (G+2) floors commercial building in the premises bearing Municipal No.2-2-8 vide Proc. No. H1/787/04, dt. 06-05-2004 is here with suspended or revoked under the public interest and misrepresentation of yours when the time of obtaining permission".*

5. Assailing the order, Smt. P.Prameela filed W.P.No. 10075 of 2004, whereas Ms. Cheela Anitha Sagar filed W.P.No. 10086 of 2004 seeking direction to the Commissioner, Municipality, Jangaon to implement the order dated 14-6-2004. The order of status quo came to be granted in W.P.No.10086 of 2004. Ms.Cheela Anitha Sagar filed Contempt Case No. 88 of 2005 complaining violation of status quo order. Thus, these matters are heard together.

6. Learned counsel appearing for Smt. P.Prameela, the petitioner in W.P.No.10075 of 2004, submits that there is no nexuses between the show cause notice and the final order passed by the Jangaon Municipality and therefore, the final order needs to be set aside.

7. Learned counsel appearing for Ms. Cheela Anitha Sagar, the petitioner in W.P.No. 10086 of 2004, raised a preliminary objection with regard to maintainability of writ petition in view of the alternative remedy available under Section 345 ( c ) of the Municipality Act.

8. Per contra it is submitted by the learned counsel appearing for P.Prameela that an appeal filed by her under Section 345( c) of the Municipality Act came to be returned and therefore, she invoked the extra ordinary jurisdiction of the Court under Article 226 of the Constitution of India.

9. The complaint of Ms. Cheela Anitha Sagar is that her neighbour Smt. P. Prameela encroached a portion of her open area under the guise of building permission plan. The dispute between the parties with regard to overlapping of the areas cannot be resolved in the writ petitions. Undisputedly, a show cause notice came to be issued to Smt. P.Prameela on the ground that an area for which building permission has been sought for overlaps the area of Ms.Cheela Anitha Sagar. Smt. P.Prameela submitted explanation. The Commissioner, Municipality, Jangaon resorted to revoke the permission on the ground of misrepresentation and public interest. The grounds on which the permission came to be revoked are not stated in the show cause notice. Therefore, there is no nexus between the show cause notice and final order passed by the Commissioner Municipality, Jangaon.

10. Thus, the final order passed by the Commissioner Muniipality, Jangaon cannot be sustained. However, the commissioner Municipality, Jangaon is at liberty to issue

fresh show cause notice and consider the explanations/objections of the parties, if any, and pass appropriate orders.

11. Accordingly, both the writ petitions are disposed of with the above directions. No order as to costs.

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Justice B.Seshasayana Reddy

10th February, 2006

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**THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY**

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